United Nations S/2016/197

Security Council

Distr.: General
27 February 2016
English
Original: Russian

Letter dated 27 February 2016 from the Chargé d'affaires a.i. of the Permanent Mission of the Russian Federation to the United Nations addressed to the Secretary-General

Further to your letter dated 23 February 2016, in which you express the intention to reappoint Judge Theodor Meron as the President of the International Residual Mechanism for Criminal Tribunals (the Mechanism), and in which you submit to the Security Council the name of Mr. Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia, as nominee for Prosecutor of the Mechanism, we should like to inform you of the following points.

While the Russian Federation will not stop the President of the Security Council from sending a response to your letter, it does not support the proposed appointments and is seriously concerned by them. In our view, they may lead to the fundamental shortcomings inherent in the past recent work of the Tribunal, which was headed by Judge Theodor Meron from 2011 to 2015, being retained and reproduced.

Serious problems with the judicial administration of cases have become commonplace for the Tribunal in particular. Trial completion dates for individual proceedings have regularly been delayed on various pretexts, at times beyond reasonable limits. A telling example is the case of Mr. V. Šešelj, who spent over 10 years in prison without being sentenced. It is unclear how such egregious cases are consistent with the presumption of innocence and the basic guarantees of defendants' rights.

Over a number of years, the Security Council called on the Tribunal to redouble its efforts to reduce the time needed for the completion of cases. Nevertheless, the leadership of the Tribunal has consistently avoided complying with the Council's instructions and has not implemented the Tribunal's completion strategy (Security Council resolution 1966 (2010) and other relevant decisions). The deadlines indicated therein have repeatedly been missed, despite being determined on the basis of suggestions and assessments from the Tribunal's leadership. Moreover, backlogs in the consideration of several cases have continued to increase rather than decrease.

We are concerned by information regarding the death of Zdravko Tolimir at a United Nations detention centre in February 2016. It appears that his counsel applied for him to travel to Serbia for treatment in 2015, but permission was refused. This latest death confirms the validity of the serious questions raised not only about ensuring due process for persons who are being tried or have been

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convicted by the Tribunal, but also about the their fundamental rights, such as the right to life, to health care and to medical assistance. Urgent steps must be taken to remedy the situation. We believe that the Office of Internal Oversight Services (OIOS) should conduct an investigation into the work of the Tribunal's medical unit. We look forward to you issuing the appropriate instructions.

The extremely unhealthy situation at the Tribunal has been demonstrated by the information disseminated and assessments provided by its judges.

We should also like to draw your attention to the fact that the proposed dates for appointing Judge Theodor Meron as President of the Mechanism exceed his term as a judge of the Mechanism, which expires on 30 June 2016. Article 10, paragraph 3, of the statute of the Mechanism provides that its judges "shall be eligible for reappointment by the Secretary-General after consultation with the Presidents of the Security Council and of the General Assembly". Since it is impossible to prejudge the outcome of that procedure at this stage, we trust that this fact will be reflected in your decision.

(*Signed*) Petr **Iliichev**
Chargé d'affaires a.i.